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IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

APPEAL FROM ORDER No 82 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE B.J.SHETHNA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

VIRABHAI PUNJABHAI JADAV

Versus

KANUBHAI JAGUMAL JIVNANI

Appearance:

1. Appeal from Order No. 82 of 1999

MR TUSHAR MEHTA for Petitioner No. 1

..... for Respondent No. 1

CORAM : MR.JUSTICE B.J.SHETHNA

Date of decision: 23/10/2001

ORAL JUDGEMENT

This appeal is arising out of the impugned order dated 5.11.1998 passed by the learned Civil Judge (S.D.), Amreli below Ex.5 in Special Civil Suit No.7/97 whereby

the learned Trial Judge allowed the application Ex.5 and confirmed ad-interim injunction passed in favour of the respondent-plaintiff till the disposal of of the suit. Along with this appeal, the appellant filed Civil Application No.1147 of 1999 wherein also rule was made returnable on 7.12.1999. But so far no interim order was granted in favour of the appellant-original plaintiff.

Notice issued to the respondent original-plaintiff is served through public notice in the newspaper but so far nobody appears for him.

Mr.Tushar Mehta, learned counsel for the appellant-original defendant stated at the bar that on reconstitution of the districts Special Civil Suit No.7/97 filed by the respondent-plaintiff before the court of Civil Judge (S.D.), Amreli has now been transferred to Junagadh court and the said suit is riped. He, therefore, made only one request to direct the learned trial court to expedite hearing of the suit as early as possible with a time bound programme so that the respondent-plaintiff, who has indulged in delay tactics should not be benefited with the order of interim relief passed in his favour by the trial court below Ex.5 in the suit.

Considering the peculiar facts and circumstances of the case, this appeal is therefore disposed of without going into legality and validity of the impugned order passed by the learned trial court with a direction to the learned Trial Judge to decide main suit as early as possible and not later than 31.12.2002. The parties shall fully cooperate with the final disposal of the suit. The learned trial Judge shall impress upon the respondent-original plaintiff to fully cooperate with the final disposal of the suit. If because of the noncooperation of the respondent-plaintiff, the learned trial judge is not in a position to dispose of the suit finally as directed above, latest by 31.12.2002 then automatically interim relief granted by the trial court in his favour shall come to an end. It is made clear that the learned trial judge shall not be influenced with observations made by his predecessor while deciding application Ex.5 as the learned trial Judge is supposed to decide the suit on the basis of the evidence led before him.

(B.J.Shethna, J.)

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